



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Confirmation Number: 8697

Cesare GALLI et al.

Attorney Docket: P66004US0

Serial No. 09/647,939

Group Art Unit: 1632

Filed: December 20, 2000

Examiner: Deborah CROUCH

For: SOURCE OF NUCLEI FOR NUCLEAR TRANSFER

SECOND DECLARATION UNDER 37 C.F.R. § 1.132

1. I, Cesare Galli, am a citizen of Italy and reside at Via Cabrini 12, Cremona, IT 26100, Italy.
2. I am one of the inventors of the above-referenced application.
3. I am familiar with the above-referenced U.S. Patent Application Serial No. 09/647,939 and the rejections raised by the Examiner.
4. I am one of the authors of the paper – Galli et al., Mamalian Leukocytes Contain All the Genetic Information Necessary for the Development of a New Individual, Cloning, Vol. 1, pp. 161-170 (1999) (hereinafter “Clone Paper”); and I am familiar with the content of the Clone Paper.
5. I respectfully submit that the statements relied by the Examiner in the rejection come from the descriptions in the Clone Paper, e.g. page 168, col. 1, parag. 1, lines 11 – 17; page 163, col. 1, lines 3 – 7 and lines 11 – 13; and page 166, col. 1, lines 10 – 14. However, as the author of the Clone Paper, I respectfully submit that, the Examiner has misinterpreted these statements and taken these statements out of context. For example, the following sentences appeared before the statement on page 168, col. 1, parag. 1, lines 11 – 17 – “We are confident that much higher future rates of embryo development and survival to term will be achieved. This is already clear from an analysis of results obtained by us after the optimization of technical procedures and from ongoing pregnancies” (emphasis added). I respectfully submit that it is clear to a person of ordinary skill in the art that what I call optimization steps apply not to the work of my invention of the present patent application, but to future work and ongoing pregnancies. I respectfully submit herein that the calf of the present invention, Galileo, was not produced with these optimization steps mentioned in the Clone Paper. They have been developed later to improve the efficiency and they deal with cases for which there were ongoing pregnancies as opposed to Galileo, who was already born.
6. The examiner seems to have been persuaded by the work published by Wakayama and Hoechedlinger and therefore doubts that the simple steps set out in the present case are